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September 5, 2024

VIA ECF

Honorable Rukhsanah L. Singh, U.S.M.J
United States District Court
Clarkson S. Fisher Building & US Courthouse
402 East State Street
Trenton, NJ 08608

Re: *In re: Johnson & Johnson Talcum Powder Products, Marketing, Sales Practices, and Products Liability Litigation*
Case No.: 3:16-md-02738-MAS-RLS

Dear Judge Singh:

Pursuant to the Court's request for bi-monthly reports, the parties jointly offer the following updates on recent MDL activities.

Dispositive Motions & Daubert Motions:

- Rule 702 Daubert Motions were filed by the parties on July 23, 2024, except for Plaintiffs' motion addressed to defense expert Dr. Jeff Boyd which was filed on August 2, 2024 by agreement. Oppositions to the Daubert Motions were filed August 22, 2024. Plaintiffs' were granted leave to file a total of 450 pages for their opposition briefs (ECF 33105).
- Plaintiffs filed motions to exclude the geology opinions of Drs. Poulton and Webb (ECF 32996); exclude the opinions of Dr. Sutcliffe (ECF 32998); exclude the opinions of Drs. Finan, Saenz, and Holcomb (ECF 32999); exclude the opinions of Dr. Permuth (ECF 33001); exclude the opinions of Drs. Longacre and Felix (ECF 33002); exclude the opinions of Drs. Sanchez, Wylie, and Su (ECF33006); exclude the opinions of Dr. DiFeo (ECF 33010); exclude the opinions of Dr. Kornak ECF 33011);

exclude the opinions of Dr. Boyd (ECF 33060); and in support of Chief Judge Wolfson's 2020 Daubert Opinion (ECF 33009).

- Defendants filed motions to exclude the opinions of Drs. Clarke-Pearson with respect to Ms. Rausa, Ms. Converse, and Ms. Newsome (ECF 33007); exclude the opinions of Dr. Wolf with respect to Ms. Bondurant, Ms. Gallardo, and Ms. Judkins (ECF 33003); exclude the opinions of Drs. Kessler, Plunkett, Sage, and Newman (ECF 33000); exclude the opinions of Dr. Godleski (ECF 33004) exclude the opinions Plaintiffs' experts regarding alleged heavy metals and fragrances (ECF 33005); exclude Plaintiffs' experts' general causation opinions (ECF 33008); exclude Plaintiffs' experts' opinions regarding biological plausibility/mechanism (ECF 33013); and exclude Plaintiffs' experts' asbestos-related opinions (ECF 33012).
- Per Order of July 22, 2024 (ECF 32991), J&J and LLT filed their Motion for Summary Judgment on August 23, 2024 (ECF 33142-33145 in the main docket, copies filed on individual dockets for the six involved cases). Oppositions are due September 23, 2024, and replies on October 11, 2024.
- On August 2, 2024, Your Honor extended the deadline for the PSC to identify the case(s) to be selected for trial to September 5, 2024 (ECF 33059).
- On August 22, 2024, the parties filed their Oppositions to the Daubert Motions filed on July 23, 2024.

Expert Disclosures and Discovery:

- On August 1, 2024, the PSC filed a letter seeking to compel Defendants to produce invoices for all expert work relating to talc claims, whether related to this MDL or not (ECF 33052). On August 1, 2024, Defendants filed a letter in response (ECF 33053) noting the PSC's "motion" is procedurally improper under the Local Rules as it is not actually a motion. On August 9th, the Court instructed the parties to meet and confer no later than August 20th (ECF 33077). If the parties remain at an impasse after that meeting, the Court ordered Defendants to file their

Opposition by August 27th, and the PSC to file their Reply by September 4th. On August 19th, the parties met and conferred on the issue but were unable to resolve the dispute. Defendants filed their Opposition to the motion on August 27th (ECF 33187). The PSC filed their reply on September 4, 2024 (ECF 33232).

- On July 30, 2024, Defendants filed a Motion to Strike Rebuttal Expert Report of Dr. Elizabeth Stuart (ECF 33038). Plaintiffs' Opposition was filed on August 20, 2024 (ECF 33102). Defendants' Reply was filed on August 27, 2024 (ECF 33189).

Plaintiffs' Steering Committee's Motion to Establish a Census:

- On July 10, 2024, the PSC filed a Motion for the Entry of an Order to Establish a Census and Require the Provision of Data by Persons with Unfiled Claims/Cases to Confirm the Plaintiff Suffers from Epithelial Ovarian Cancer, Fallopian Tube Cancer, or Primary Peritoneal Cancer (ECF 32931). Defendants' Opposition was filed July 19, 2024 (ECF 32985). Plaintiffs' Reply to Defendants' Opposition was filed July 29, 2024 (ECF 33032).

Plaintiffs' Subpoena to Public Library of Science (PLOS):

- On March 20, 2024, the PSC served the Public Library of Science (PLOS) with a subpoena for information related to a manuscript submitted by Plaintiffs' expert Dr. Saed to PLOS in 2020.
- On April 12, 2024, Counsel for PLOS served an objection to the subpoena claiming privilege and confidentiality and attaching to the objection a Privilege Log on counsel for the Plaintiffs.

Defendants' Motion to Compel Inspection of Dr. William Longo's Laboratory (ECF 32827):

- On June 17, 2024, Special Master Schneider denied Defendants' Motion to Compel the Inspection of Dr. William Longo's Laboratory (ECF 32826). Defendants filed an objection to the Special Master's Order on

July 1, 2024 (ECF 32872). Plaintiffs' Opposition to Defendants Objections to the Special Master's Order was filed on July 22, 2024 (ECF 32992). Defendants filed their Reply on July 29, 2024 (ECF 33035).

Notice of Subpoena to Paul Hess:

- The deposition of Mr. Hess occurred on July 10, 2024. The PSC raised objections to the scope of the inquiry of Mr. Hess at the beginning of the deposition. The Special Master heard argument from the parties, ruled on the objections, and provided instructions for the scope of questions to be asked the witness. It is the PSC's position that the deposition proceeded in keeping with Special Master Schneider's orders. On July 22, 2024, Defendants filed a Motion to Compel Hess's testimony and asked for Sanctions (ECF 32993- 26). Plaintiff's' filed opposition on August 1, 2024 (ECF 33056). Paul Hess, through his personal counsel, filed opposition on August 1, 2024 (ECF 33058). Defendants filed their reply on August 2, 2024 (ECF 33057). The matter was heard by Special Master Schneider on August 5, 2024. On August 6, 2023, Special Master Schneider granted in part and denied in part Defendants' motion (ECF 33067). Defendants objected to Special Master Schneider's order on August 20, 2024 (ECF 33103, 33104). The PSC filed their Opposition to Defendants' Objections to the Special Master's Order on September 3, 2024 (ECF 33227). Counsel for Mr. Hess separately filed Opposition on September 3, 2024 (ECF 33228). Defendants will file their Reply on September 9, 2024.

Subpoenas to Beasley Allen Law Firm, Smith Law Firm, and Ellington Management Group:

- On May 20 and 21, 2024, Defendants filed Notices of Intent to Serve Subpoenas on the Beasley Allen Law Firm (ECF 32201), Ellington Management Group (ECF 32215), and the Smith Law Firm (ECF 32226). On May 30, 2024, the Plaintiffs Steering Committee filed a Motion to Quash or for Protective Order regarding these subpoenas (ECF 32483). Also on May 30, 2024, the Beasley Allen Law Firm separately filed a Motion to Quash and/or for Protective Order concerning the subpoena directed to the Beasley Allen Law Firm (ECF 32445). On June 3, 2024, Allen Smith and the Smith Law Firm filed a Motion to Quash the

Subpoena directed to them (ECF 32603). Defendants filed one opposition to all three motions on June 17, 2024 (ECF 32827). Non-Party Beasley Allen served their reply brief on June 24, 2024 (ECF 32858). All three motions were heard on July 1, 2024 in a hearing conducted by Special Master Schneider. On July 9, 2024, Special Master Schneider granted all three Motions to Quash (ECF 32926). On July 21, 2024 Defendants J&J and LLT Mgt. filed their Notice of Objections to Special Master Order No. 25 (ECF 32987). On August 5, 2024, responses in opposition to the Objection were filed by Beasley Allen (ECF 33061); the PSC (33062); and the Smith Law Firm (ECF 33064). On August 12, 2024, Defendants filed their Reply (ECF 33085). On August 26, 2024, Defendants filed a letter apprising the Court of additional relevant authority (ECF 33171).

Subpoena to Analysis Group LLC:

- On June 11, 2024, the PSC served Analysis Group LLC with a subpoena for information related to Defendants' expert Dr. Kathleen Sutcliffe and her work on this litigation. The Defendants view the subpoena as overbroad, raising issues of financial disclosures for all experts in the MDL. The parties will meet and confer on the issues.

Plaintiff Profile Forms:

- On June 11, 2024, Your Honor entered Defendants' Order to Show Cause why the cases listed in Exhibit A attached to the Order should not be dismissed with prejudice for their failure to provide Defendants with Plaintiff Profile Forms (ECF 32811). The Plaintiffs subject to the Order had until July 2, 2024, to show cause why their case should not be dismissed with prejudice. On July 17, 2024, Defendants filed a final dismissal order listing 2016-2017 cases subject to the June 11th OTSC which failed to show good cause to the Court (ECF 32980). The PSC has no objection to the order as submitted by Defendants on July 17, 2024 (ECF 32980). The Defendants request that the final dismissal order be entered.
- On August 15, 2024, Your Honor entered Defendants' Order to Show Cause regarding PPF deficiencies (ECF 33096). Plaintiffs subject to the OTSC have until September 5, 2024, to show cause why their case

should not be dismissed with prejudice. Defendants will file a final dismissal order after September 19, 2024, listing the cases subject to the August 15th OTSC which failed to file a PPF and show good cause to the Court.

- Defendants filed an OTSC on July 1st (ECF 32868) regarding cases filed and/or transferred to this MDL in 2020 which remain deficient in serving PPFs. The cases listed on the July 1st OTSC were previously listed to the Court on the May and June PPF Reports (ECF 32127 & ECF 32599). Defendants respectfully request the July 1st OTSC be entered at the Court's earliest convenience.
- Defendants also filed an OTSC on September 3rd (ECF 33224) regarding cases filed and/or transferred to this MDL from 2021 to September 1, 2023 which remain deficient in serving PPFs. The cases listed on the September 3rd OTSC were previously listed to the Court on the July and August PPF Reports (ECF 32869 & ECF 33055). Defendants respectfully request the September 3rd OTSC be entered at the Court's earliest convenience.
- With regard to PPF Reports, the parties agree that if a Plaintiff contends that Defendants have mistakenly placed a Plaintiff's case on the deficiency list, counsel for the Plaintiff will reach out directly to defense counsel to advise of that error with Defendants to correct the list as needed. The parties agree that Plaintiffs should confirm the accuracy of the MDL Centrality information and close the MDL Centrality account for a particular plaintiff when a case is dismissed. Defendants' deficiency list will be updated as corrections are received. The Plaintiffs should be reminded to check the lists each month for their cases and to promptly notify Defendants if they believe a case is listed in error, or if they have thereafter served the discovery. Defendants have agreed to promptly revise the list to remove cases included in error.

CMO 9 Notices:

- On August 14, 2024, Defendants filed an Order to Show Cause (ECF 33089) why cases listed on Exhibit A should not be dismissed with prejudice for their failure to either file a Notice of Inability to Substitute

(“NIS”), move to substitute the proper party plaintiff, or file an amended complaint by July 12, 2024, pursuant Paragraphs 2 and 3 of the Court’s May 15, 2024, Order Regarding CMO 9 Notices (ECF 32181). Defendants respectfully request the OTSC be entered at the Court’s earliest convenience.

New Cases:

- A complaint seeking certification of classes for medical monitoring and other relief was filed on June 17, 2024 (Joni S. Bynum et al. V. LLT Management LLC, et al., Civil Action 3:24-cv-07065). On August 21, 2024, Defendants filed a motion to dismiss the Bynum complaint seeking certification of a medical monitoring class (ECF 11). On August 30, 2024, the Parties entered into a Stipulation to Extend Time for the Plaintiffs to Respond to the Motion to Dismiss or file an Amended Complaint by September 26, 2024 (ECF. 12). The Court granted that stipulation the same day (ECF 13).
- A class action complaint seeking to declare that certain transactions implemented in conjunction with LTL’s bankruptcy filings were fraudulent was filed on May 22, 2024 (Rebecca Love et al., v. LLT Management LLC, et al., Civil Action 3:24-cv- 06320). On June 11, 2024, Plaintiffs filed a Motion for TRO and Order to Show Cause Why a Preliminary Injunction Should Not Issue (Rebecca Love, et al., Civil Action 3:24-cv-06320, Doc. 6). Defendants’ Brief in Opposition to the TRO and Preliminary Injunction was filed on June 18, 2024 (Civil Action 3:24-cv-06320, Doc. 16). On June 28, 2024, Judge Shipp issued a Memorandum Opinion and Order denying Plaintiffs’ Motion for Temporary Restraining Order and Preliminary Injunction (Civil Action 3:24-cv-06320, Doc. 31). On July 3, 2024, Plaintiffs filed a Notice of Appeal of Judge Shipp’s decision to the United States Court of Appeals for the Third Circuit (Civil Action 3:24-cv-06320, Doc. 37). On July 5, 2024, Plaintiffs- Appellants filed an Opposed Emergency Motion for Injunction Pending Appeal or, Alternatively, to Expedite Appeal (Doc. 5). On July 12, 2024, the Johnson & Johnson Defendants filed a response. (Doc. 12). On July 15, Plaintiffs-Appellants filed a Reply. (Doc. 13). On July 18, 2024, the United States Court of Appeals for the Third Circuit denied the Appellants Motion for Injunction Pending

Appeal or, Alternatively, to Expedite Appeal (Doc. 26). On July 11, 2024, Defendants filed a Motion to Dismiss Class Action Complaint in the Love matter (Doc. 47). Plaintiffs filed their Opposition to the Motion to Dismiss on July 22, 2024 (Doc. 48). On July 29, 2024, Defendants filed their Reply in Support of their Motion to Dismiss (Doc. 50). On August 30, 2024 the Parties entered into a Stipulation of Dismissal Pursuant to F.R.A.P. 42(b) (1) to dismiss the Third Circuit Appeal of the Denial of the Plaintiffs-Appellants Motion for Preliminary Injunction(Doc. 36).

Status of New Jersey Proceedings Before Judge Porto:

- Depositions of all expert witnesses have been completed.
- On August 16, 2024, Defendants filed their *Accutane* and dispositive motions in *Carl* and *Balderrama* with responsive briefs due by September 13, 2024, and reply briefs to dispositive motions due by September 24, 2024.
- Plaintiffs did not file any *Accutane* or dispositive motions.
- The parties filed post-trial briefs on the issue of disqualification of the Beasley Allen law firm on May 17, 2024 to Your Honor and Judge Porto. Replies were filed on May 24, 2024. On July 19, 2024, the MCL Court denied Defendants' Motion for Disqualification (Docket No. ATL-L-2648-15). On July 19, 2024, this Court entered an order directing the parties to show cause why the MCL Court's findings of fact and conclusions of law should not be adopted. On July 25, 2024, Defendant J&J and LLT Mgt. filed their response to the Court's July 19, 2024 Show Cause Order (ECF 33026). A Text Order was issued by the MDL court on July 31, 2024, granting Beasley Allen leave to file a response to the Show Cause Order by August 5, 2024. On August 5th, Beasley Allen submitted a responsive brief (ECF 33065). On August 6th, Defendants filed a letter requesting leave to file a reply to Birchfield's and Beasley Allen's August 5th response. The Court granted the request for leave on August 7, 2024 (ECF 33069). On August 12, 2024, Defendants filed their Supplemental Reply to the Court's July 19, 2024, Show Cause Order Explaining Why the Court Should Not Adopt the State MCL Judge's

Findings of Fact and Conclusions of Law on Their Motion to Disqualify Beasley Allen from This Litigation (ECF 33084).

- On August 8, 2024, Defendants filed a Motion for Leave to File an Interlocutory Appeal of the Trial Court's July 19, 2024, Opinion and Order regarding the denial of Defendants' motion to disqualify Beasley Allen. On August 19, 2024, Beasley Allen filed their Opposition. On August 26, 2024, Defendants filed a Motion for Leave to File Reply Brief. The matter is docketed at AM-000635-23.

Thank you for your attention to these matters.

Respectfully submitted,

s/ P. Leigh O'Dell
P. Leigh O'Dell

s/ Michelle A. Parfitt
Michelle A. Parfitt

Plaintiffs' Co-Lead Counsel

cc: Susan Sharko, Esq. (via email)
All Counsel (via ECF)